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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,210	07/11/2003	Christian Georg Gerlach	Q76413	3108

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EXAMINER	
WOZNIAK, JAMES S	

ART UNIT	PAPER NUMBER
2626	

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03/11/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/617,210	GERLACH, CHRISTIAN GEORG	
	Examiner	Art Unit	
	JAMES S. WOZNIAK	2626	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ They raise the issue of new matter (see NOTE below);

(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: *1, 3, 5-9, 11, 13, 15-18, and 20*.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/James S. Wozniak/
Primary Examiner, Art Unit 2626

Continuation of 3. NOTE: The comparison of indexes has not been previously claimed and would require further search and/or consideration. It is noted, however, that this amendment does not appear to overcome the prior art of record as per item 11 .

Continuation of 11. does NOT place the application in condition for allowance because: With respect to the previous 35 U.S.C. 112, first paragraph rejection directed towards a lack of enablement, the applicant again cites portions of the specification dealing with a general mention that various additional speech coding processes can be performed in parallel along with a further recitation that in the case of autocorrelation calculation, signal values are accessed simultaneously in memory and argues that the specification teaches how auto-correlation matricies are processed in that they are accessed simultaneously and is therefore enabling (Amendment, Pages 8-10). While the examiner does acknowledge that the specification does appear to provide some additional description to aid in enabling the calculation of autocorrelation coefficients, how these coefficients are actually calculated using the parallel processing scheme applied to vector quantization is still not sufficiently explained. As was noted in the prior Office Action, the novelty of the applicant's invention appears to be this parallel processing scheme (Page 3) and since the applicant considers this teaching to be new in the art, it should likewise be explained how it can be applied to these other CELP processes in order for the invention to be properly utilized by one of ordinary skill in the art. Auto-correlation calculation is a different process from vector quantization and thus, the detailed parallel processing explanations associated with VQ is insufficient for explaining auto-correlation processing. Further, the examiner points out that claim 5 additionally features other CELP processes that do not feature even the additional explanation provided with respect to the auto-correlation matricies and accordingly the specification is not enabling for these features as well. Thus, these arguments have been fully considered, but are not convincing. The applicants next argue that Kwan and Davidson do not teach the new limitation regarding evaluating the index by comparing the indices of optimal group code vectors because the art lacks the teaching that indices are being compared with each other (Amendment, Page 11). In response, the examiner notes that Kwan teaches that each PE (Fig. 6) of a DSP determines a best codevector, which as was previously explained is associated with an index position (Prior OA, Page 7), and then compares these best codevector indices to determine a best overall optimal codevector (Page 345). Thus, the amended claims do not appear to overcome the prior art of record. It is recommended that the recited "comparing" be defined in greater detail in the claims in order to differentiate the applicant's invention from the prior art of record.